EXHIBIT 3[Fil d Und r Seal]

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 2 of 11 CONFIDENTIAL

1	UNITED STATES DISTRICT COURT
2	NORTHERN DISTRICT OF CALIFORNIA
3	
4	CHASOM BROWN, WILLIAM BYATT,) Case No.
5	JEREMY DAVIS, CHRISTOPHER) 5:20-cv-03664-LHK-
6	CASTILLO, and MONIQUE TRUJILLO) SVK
7	individually and on behalf of)
8	all other similarly situated,)
9	Plaintiffs,)
10	vs.
11	GOOGLE LLC,
12	Defendant.)
)
13	
14	CONFIDENTIAL
15	
16	VIRTUAL VIDEOCONFERENCE VIDEO-RECORDED
17	DEPOSITION OF ON AMIR, PH.D.
18	Tuesday, August 16, 2022
19	Remotely Testifying from La Jolla, California
20	
21	Stenographically Reported By:
22	Hanna Kim, CLR, CSR No. 13083
23	Job No. 5344524
24	
25	PAGES 1 - 310
	Page 1

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 3 of 11 CONFIDENTIAL

1 UNITED STATES DISTRICT COURT	1 REMOTE APPEARANCES OF COUNSEL: (CONTINUED)
2 NORTHERN DISTRICT OF CALIFORNIA	2
3	3 For Defendant:
4 CHASOM BROWN, WILLIAM BYATT,) Case No.	4 QUINN EMANUEL URQUHART & SULLIVAN, LLP
5 JEREMY DAVIS, CHRISTOPHER) 5:20-cv-03664-LHK-	5 BY: ALYSSA "ALY" OLSON, ESQ.
6 CASTILLO, and MONIQUE TRUJILLO) SVK	6 865 S. Figueroa Street, 10th Floor
7 individually and on behalf of)	7 Los Angeles, California 90017
8 all other similarly situated,)	8 213.443.3000
9 Plaintiffs,)	9 alyolson@quinnemanuel.com
10 vs.)	10
11 GOOGLE LLC,)	11 For Plaintiffs: (Calhoun vs. Google)
12 Defendant.)	12 SIMMONS HANLY CONROY
13)	13 BY: AN TRUONG, ESQ,
14	14 112 Madison Avenue, 7th Floor
15	15 New York, New York 10016-7416
16 Confidential, virtual videoconference	16 212.257.8482
17 video-recorded deposition of ON AMIR,	17 atruong@simmonsfirm.com
PH.D., remotely testifying from La Jolla,	18
19 California, taken pursuant to the	19
20 stipulations of counsel thereof, on	20 Also Present:
21 Tuesday, August 16, 2022, before Hanna	21 MARK KEEGAN, for Plaintiffs
22 Kim, CLR, Certified Shorthand Reporter,	22 Haimin Zhang, Analysis Group
23 No. 13083.	23 SEAN GRANT, Videographer
24	24
25	25
Pag	e 2 Page 4
1 REMOTE VIDEOCONFERENCE APPEARANCES OF COUNSEL:	1 INDEX OF EXAMINATION
2	2
3 For Plaintiffs:	3 WITNESS: ON AMIR, PH.D.
4 BOIES SCHILLER FLEXNER LLP	4 EXAMINATION PAGE
5 BY: BEKO O REBLITZ-RICHARDSON, ESQ	5 BY MR. REBLITZ-RICHARDSON: 10, 303
6 BY: MARK C MAO, ESQ	6 BY MS. OLSON: 296
7 BY: ALISON ANDERSON, ESQ	7
8 100 SE 2nd St , 28th Floor	8
9 Miami, Florida 33131	9 QUESTIONS INSTRUCTED NOT TO ANSWER:
10 305 539 8400	10 PAGELINE
11 brichardson@bsfllp com	11 5613
12 -and-	1200
	13
13 MORGAN & MORGAN LAW FIRM	14
14 BY: MICHAEL RAM, ESQ	15
15 711 Van Ness Avenue, Suite 500	
16 San Francisco, California 94102-3275	16
17 415 358 6913	17
18 mram@forthepeople com	18
19	19
20	20
21	21
22	22
23	23
24	24
25 Pag	25 Page 5

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 4 of 11 CONFIDENTIAL

1 INDEX OF EXHIBITS	1 Remotely Testifying from La Jolla, California
2	2 Tuesday, August 16, 2022; 8:05 a m., PDT
3 AMIR DEPOSITION EXHIBITS PAGE	3o0o
4 Exhibit 1 "Expert Report of Professor On 15	4 THE VIDEOGRAPHER: Good morning. We're on
5 Amir," April 15, 2022; 311 pages	5 the record. The time is 8:05 a m., and the date is 08:05:33
6 Exhibit 2 "Rebuttal Report of Professor On 15	6 August 16th, 2022.
7 Amir," May 20, 2022; 76 pages	7 Please note that this deposition is being
8 Exhibit 3 "Supplemental Report of 15	8 conducted virtually.
9 Professor On Amir," June 30,	9 Audio recording depends on the quality of
10 2022; 53 pages	10 camera and internet connection of participants. 08:05:45
11 Exhibit 4 "Google Brand Studio, Today's 179	11 What is seen from the witness and heard on screen is
User on Privacy, Ads, and	12 what will be recorded.
Consent"; Bates nos.	Audio and video recording will continue to
14 GOOG-CABR-00422093 through	14 take place unless all parties agree to go off the
15 '422182	15 record. 08:06:00
16 Exhibit 5 "Brand Studio, Incognito in the 198	16 This is Media Unit Number 1 of the
17 context of our brand,	17 video-recorded deposition of Dr. On Amir.
18 go/sinrastro-brand-research	18 This deposition is being taken on behalf
19 2019"; Bates nos.	19 of counsel for Plaintiffs in the matter of Chasom
20 GOOG-BRWN-00156752 through '824	20 Brown, et al., versus Google LLC, filed in the 08:06:10
21 Exhibit 6 "Brand Studio, Incognito Icon 206	21 United States District Court, Northern District of
22 Redesign April 18, 2019"; Bates	22 California. Case Number: 5:20-cv-03664-YGR-SVK.
23 nos. GOOG-BRWN-00028191 through	23 And is being conducted remotely using
24 '28375	24 virtual technology.
25	25 My name is Sean Grant from the firm 08:06:29
Page 6	Page 8
1 INDEX OF EXHIBITS (CONTINUED)	1 Veritext. I'm the videographer.
2	2 And the court reporter is Hanna Kim, also
3 AMIR DEPOSITION EXHIBITS PAGE	3 from Veritext.
4 Exhibit 7 "Expert Report of Bruce A. 216	4 I am not related to any party, nor am I
5 Strombom, May 27, 2022; 183	5 financially interested in the outcome. 08:06:42
6 pages	6 If there are any objections to proceeding,
7 Exhibit 8 Order Denying Motion to Dismiss; 221	7 please state them at the time of your appearance.
8 41 pages	8 Counsel and all present, including
9 Exhibit 9 E-mail from Steve Hamilton, 240	9 remotely, will now state their appearances and
10 1/27/2021; Bates nos.	10 affiliations for the recording, beginning with the 08:06:52
11 GOOG-BRWN-00406075 through	11 noticing attorney.
12 '406076	12 MR. REBLITZ-RICHARDSON: Good morning.
13 Exhibit 10 "Incognito mode Awareness and 265	13 Beko Reblitz-Richardson of Boies Schiller Flexner on
14 Landscape"; Bates nos.	14 behalf of the Plaintiffs.
15 GOOG-BRWN-00477546 through	15 With me are Mark Mao and Alison Anderson, 08:07:10
16 '477604	16 also of Boies Schiller Flexner; Michael Ram from the
17 Exhibit 11 "Incognito Mode UXR Review"; 289	17 Morgan & Morgan Law Firm; and also Mark Keegan, an
Bates nos. GOOG-BRWN-00042388	18 expert retained by the Plaintiffs in this matter.
19 through '42418	19 MS. OLSON: Aly Olson from Quinn Emanuel
2000	20 on behalf of Google and the witness. 08:07:19
21	21 And with me is Haimin Zhang, who is a
22	22 consulting expert from Analysis Group.
23	23 THE VIDEOGRAPHER: Ms. Troung.
24	24 MS. TROUNG: An Troung, Simmons Hanly
25	25 Conroy, appearing pursuant to court order for the 08:07:31
Page 7	Page 9

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 5 of 11 CONFIDENTIAL

001/12	
1 Calhoun Plaintiffs in the related case.	1 deposition?
2 THE VIDEOGRAPHER: Thank you.	2 A. I tried to have a good breakfast.
3 Will the certified court reporter please	3 Q. Anything else?
4 swear in the witness.	4 A. No.
5	5 Q. In total, how much time did you spend 08:09:39
6 ON AMIR, PH.D.,	6 preparing for this deposition?
7 having been duly administered an oath over	7 A. Probably eight to ten hours.
8 videoconference as stipulated by all counsel, was	8 Q. And you said you reviewed not only your
9 examined and testified as follows:	9 three reports, but some additional documents.
10 THE VIDEOGRAPHER: Counsel.	10 Do you recall that? 08:10:00
11	11 A. I did.
12 EXAMINATION	12 Q. And and were the those the documents
13 BY MR. REBLITZ-RICHARDSON:	13 cited in your reports?
14 Q. Good morning, Professor.	14 A. Yes, they are.
15 A. Good morning. 08:08:04	15 Q. Did you review any documents not cited in 08:10:09
16 Q. Please state your full name.	16 your reports in preparation for your deposition
17 A. On Amir.	17 today?
18 Q. Do you understand that you are under oath?	18 A. I don't think so.
19 A. I do.	19 Q. Who hired you?
Q. If there is is there any reason you 08:08:12	20 A. The counsel firm that Aly represents. 08:10:22
21 cannot testify truthfully today? 22 A. No.	21 Q. And when were you hired?
	22 A. I'm not sure, to be honest. I don't
23 Q. If my question is unclear, would you 24 please let me know.	23 remember the date.
25 A. Certainly will. 08:08:24	24 Q. Approximately? 25 A. I honestly don't remember. 08:10:48
Page 10	Page 12
1 0 10 11 1 6	1 O W it this
1 Q. Is Google's counsel representing you for	1 Q. Was it this year? 2 A. I don't want to give you the wrong answer.
2 this deposition?	A. I don't want to give you the wrong answer. I don't remember.
3 A. Yes, she is. 4 Q. And where are you right now for this	4 Q. It was before you submitted your first
5 deposition? 08:08:34	5 report; correct? 08:11:09
6 A. I'm in my office at UC San Diego.	6 A. It was obviously before way before I
7 Q. Do you have anyone in the room there with	7 submitted my first report. It was way before I
8 you?	8 conducted the affirmative studies. I just don't
9 A. I do not.	9 remember the dates.
10 Q. Do you have any documents with you for the 08:08:43	10 Q. Okay. And what were you hired to do? 08:11:21
11 deposition?	11 A. As stated in my report, I was hired to
12 A. I do not.	12 offer an opinion on specific questions raised.
13 Q. What, if anything, did you do to prepare	13 Q. And those specific questions are detailed
14 for today's deposition?	14 in your reports; right?
15 A. I reread my three reports and many of the 08:08:54	15 A. Yes, they are detailed in my report. 08:11:41
16 related documents that I used to formulate these	16 Q. And who first contacted you about being an
17 reports.	17 expert in this matter?
I met with my support team at Analysis	18 A. It was someone from Aly's firm through
19 Group to go over the data and analysis and met with	19 Analysis Group that contacted me.
20 counsel to discuss this 08:09:19	20 Q. Do you know the person's name? 08:12:03
21 MS. OLSON: Dr. Amir, I just you don't	21 A. I don't remember. It's been a while.
22 need to say what you discussed with counsel.	22 Q. Who explained your assignment to you?
23 THE WITNESS: Thank you.	23 A. As usually in these matters, I had the
24 BY MR. REBLITZ-RICHARDSON:	24 first meeting with attorneys, and they raised the
25 Q. Anything else to prepare for today's 08:09:31	25 question. I judged that it's a question that I can 08:12:20
Page 11	Page 13

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 6 of 11 CONFIDENTIAL

1 collecting information?	1 goes and crunches that information and then throws
2 A. Well, there is information collected	2 away the rest, then it might no be collected.
3 during the session that I that I use, that is	3 So I'll tell you what I think I know, and
4 then removed when I close the browser at the end of	4 that is that different third parties receive some of
5 the session. 08:48:05	5 my browsing information. For example, if I use 08:50:47
6 And there's information being collected or	6 incognito and go to Amazon, Amazon knows I'm there.
7 received sorry there's the information, I	7 So Amazon knows what I looked at. Or, you know,
8 don't know where they whether they collect it or	8 what what this user using incognito looked at and
9 not. But it's information received by various	9 what this user might have purchased.
10 third-party entities when I log in to different 08:48:19	10 And if I'm not clever enough, and I 08:51:05
11 websites.	11 actually, in incognito mode, log in to my Amazon
12 Q. I'm going to make sure I understand. So	12 account, then Amazon knows exactly who I am, despite
13 it's your testimony that when you're in incognito	13 incognito mode because I I just logged into my
14 mode, Google collects certain information during	14 account and told them who I was.
15 that browsing that is then removed; is that correct? 08:48:34	So, yes, there you know, third-party 08:51:24
16 A. No, that's not what I said.	16 members receive information. I also imagine that my
17 MS. OLSON: Sorry. I meant to I	17 internet service provider can look at traffic going
18 accidentally was on mute, but I meant to interpose	18 through its servers and and and see
19 an objection.	19 information.
20 BY MR. REBLITZ-RICHARDSON: 08:48:47	20 BY MR. REBLITZ-RICHARDSON: 08:51:43
21 Q. Okay. Can you explain to me again what	21 Q. I just want to make sure I understand.
22 you understand to happen when you're in incognito	22 You don't know what "collect" means; is that right?
23 mode in terms of Google collecting information?	23 A. I don't know what you mean when you ask me
24 A. But first, you understand I'm not an	24 about collect. And I didn't study anything in this
25 expert on in this case on any computer science. 08:48:57 Page 42	25 case about data collection. 08:51:54
1 age 42	Page 44
1 So I'm providing you my lay understanding as a user;	1 Q. You didn't study anything in this case
2 right? Is that	2 regarding Google's collection?
3 Q. Okay.	3 A. "Data collection," I said.
4 A. Okay.	4 Q. Did you study anything in this case
5 So as a user, I understand that if I use 08:49:11	5 regarding Google's collection? 08:52:04
6 incognito mode, then certain types of	6 A. I don't know what you mean by
7 information's of information are are stored on	7 "collection." I I I said exactly. I said I
8 my device only temporarily. And when I close the	8 studied what people perceive, what entities receive
9 session, those would disappear.	9 their data. And then I studied what types of data
This is the reason I use incognito mode to 08:49:28	10 users think Google receives. 08:52:20
11 access my finances on a public computer abroad. I	And I did not use the term "collect"
12 did not want anybody to have using that machine	12 because "collect" is is a term that's downstream.
13 after me to have traces of my finances.	13 I focused on what kind of data is received by
And I also understand that when I use the	14 different parties, including Google.
15 internet in general, then third-party various 08:49:48	Q. I I need you to under explain to me 08:52:39
16 third-party players receive certain types of	16 what you understand the difference between collect
17 information from my browsing session.	17 and receive to be.
18 Q. And if you know, when you are using	18 A. I I tried. I'll try again. If I
19 incognito mode, can you stop Google from collecting	19 receive information that goes into a realtime
20 that private browsing information? 08:50:17	20 algorithm, that creates KPIs, key performance 08:52:55
MS. OLSON: Objection to the form.	21 indicators, and then I throw that data away, then I
22 THE WITNESS: I think you're also	22 receive data, and I didn't collect it.
23 restating my testimony. Let let me just be	
	For example, if my algorithm is supposed
24 clear. I do not know what "collected" means. I	24 to show you the next ad, so I could have an
24 clear. I do not know what "collected" means. I 25 know that information is received. If an algorithm 08:50:30 Page 43	

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 7 of 11 CONFIDENTIAL

6 incognito, it's your understanding that the 7 whether information is collected in this particular 8 case. 9 Q. So, in your opinion, "collect" means save; 10 is that correct? 10 is that correct? 11 A. That's how I think about data. 12 Q. And "receive" means maybe save, maybe 13 don't save; is that correct? 13 don't save; is that correct? 14 A. Receive is have access to. What you do 15 with it is, you know, kind of different from 15 with it is, you know, kind of different from 16 to with it is, you know, kind of different from 17 Q. So receive has nothing to do with what you 18 do with the data; is that correct? 19 A. No. I just -1 just explained an example 10 that you could do with the data something upon 18 do with the data; is that correct? 19 A. No. Just -1 just explained an example 20 that you could do with the data something upon 21 that data? 22 nothing is a wrong description of my testimony. 23 Q. If someone receives data, are they using 24 that data? 25 A. They don't have to. 26 Q. If someone receives data, it's your 27 opinion that that involves saving data; is that 28 right? 29 A. I - that's my interpretation of 20 Collection. But again, this is my lay 21 language. Collecting means storing, and receiving 23 does not necessarily mean storing, 24 Q. And so, you studied receiving, not 25 collecting; is that right? 26 A. Yes. 27 Q. And if you know, from your experience as a user, can you have Google delete all of the 28 user, can you have Google delete all of the 29 Q. And on you have Google delete all of the 29 (Q. And on you whave Google delete all of the 29 (Q. Andon of pall per per for you? 20 (Q. Was it a home run paper? 21 MS. OLSON: Objection to the form. 22 THE WITNESS: Yeah, I'm not sure I		
3 collect data, I save it. That means I can come back 4 to it in the future. 5 That's how I interpret your question when 08:53:27 6 you - when you asy "collect." I didn't study 7 whether information is collected in this particular 8 case. 9 Q. So, in your opinion, "collect" means save; 10 is that correct? 11 A. That's how I think about data. 12 Q. And 'receive' means maybe save, maybe 13 don't save; batt correct? 14 A. Receive is have access to. What you do 15 with it is, you know, kind of different from 16 receive. 17 Q. So receive has nothing to do with what you 18 do with the data; is that correct? 19 A. No. I just - I just explained an example 20 that you could do with the data something upon 21 receiving, but that doesn't require collecting. So 22 nothing is a wrong description of my testimony. 23 Q. If someone receives data, are they using 24 that data? 25 A. They don't have to. 26 Q. If someone receives data, are they using 27 that data? 3 A. They can. 4 Q. But they don't have to? 5 A. They don't have to 0. 68:54:28 6 Q. If someone collects data, it's your 7 opinion that that involves saving data; is that 8 right? 12 language. Collecting means storing, and receiving 13 does not necessarily mean storing, 14 Q. And so, you studied receiving, not 15 collecting; is that right? 16 A. Yes, Idid. 17 A. Teve or is, maybe. I can count, if you want. 18 a user, an you have Google delete all of the 19 information that Google received from your private 20 browsing? 21 Mis OLSON: Objection to the form. 22 THE WITNESS: Yeah, I'm not sure I 23 Q. Was it a home run paper for you? 24 A. I may have at some interview with a 25 pept and in the paper. 26 Q. Was it a home run paper for you? 27 Q. Was it a home run paper for you? 28 Q. Was it a home run paper for you? 29 Q. Was it a home run paper for you? 20 Q. Was it a home run paper for you? 20 Q. Was it a home run paper. 21 A. I think it still is a home run paper.	1 process it, and did not save it.	1 my local machine, which is why I used it when I was
4 BY MR. REBLITZ-RICHARDSON: 5 That's how I interpret your question when 08:53:27 6 you - when you say "collect." I didn't study 7 whether information is collected in this particular 8 case. 9 Q. So, in your opinion, "collect" means save; 10 is that correct? 11 A. That's how I think about data. 12 Q. And "receive" means maybe save, maybe 13 don't save, is that correct? 14 A. Receive is have access to. What you do 15 with it is, you know, kind of different from 08:53:53 16 receive. 17 Q. So receive has nothing to do with what you 18 do with the data: is that correct? 19 A. No. I just - I just explained an example 10 that you could do with the data something upon 08:54:05 21 receiving, but that doesn't require collecting. So 22 nothing is a wrong description of my testimony. 23 Q. If someone receives data, are they saving 24 that data? 25 A. They don't have to. 26 Q. If someone receives data, are they using 2 that data? 3 A. They can. 4 Q. But they don't have to? 5 A. They don't have to. 08:54:28 6 Q. If someone receives data, are they using 2 that data? 3 A. They can. 4 Q. But they don't have to? 5 A. They don't have to. 08:54:28 6 Q. If someone receives data, are they using 2 that data? 3 A. They can. 4 Q. But they don't have to? 5 A. They don't have to. 08:54:28 6 Q. If someone collects data, it's your 7 opinion that that involves saving data; is that 8 right? 9 A. That's my interpretation of 90:55:508 11 local machine, but Google servers, not on your 08:5 11 local machine, but Google servers, not on your 08:5 12 collecting. But again, this is my lay 08:54:27 11 interpretation of - you know, of the English 12 language. Collecting means storing, and receiving 10 collection. But again, this is my lay 08:54:50 14 Q. And so, you studied receiving, not 15 do and if you have Google delete all of the 19 information that Google received from your private 16 Q. And if you have Google delete all of the 19 information that Google received from your private 17 home run paper? 18 A. I was have at some interview with a 19 r	When I think of data collection, when I	2 abroad on a public machine. And that's what was
5 Q. So when you use incognito, and close 08:55 6 you - when you say "collect." Ididn't study 7 whether information is collected in this particular 8 case. 9 Q. So, in your opinion, "collect" means save; 10 is that correct? 11 A. That's how I think about data. 12 Q. And "receive" means maybe save, maybe 13 don't save; bath correct? 14 A. Receive is have access to. What you do 15 with it is, you know, kind of different from 15 with it is, you know, kind of different from 16 receive. 17 Q. So receive has nothing to do with what you 18 do with the data; is that correct? 19 A. No. I just - I just explained an example 20 that you could do with the data something upon 22 nothing is a wrong description of my testimony. 23 Q. If Someone receives data, are they swing 24 that data? 25 A. They don't have to. 08:54:23 1 Q. If someone receives data, are they using 2 that data? 2 that data? 3 A. They can. 4 Q. But they don't have to? 5 A. They don't have to? 6 Q. If someone receives data, if's your 7 opinion that that involves saving data; is that 8 right? 9 A. I - that's my interpretation of 10 collection. But again, this is my lay 11 language. Collecting means storing, and receiving last a wrong description of my testimony. 12 all anguage. Collecting means save; 13 A. They don't have to? 14 A. Yes. 15 Q. Was, that down the count of the largish of the proportion that that involves saving data; is that 18 right? 19 A. I - that's my interpretation of 10 collection. But again, this is my lay 11 does not necessarily mean storing. 12 data data? 13 does not necessarily mean storing. 14 Q. And so, you studied receiving, not 15 does not necessarily mean storing. 16 Q. And so, you whave Google defere all of the pinformation that Google received from your private 20 browsing? 21 data day that the the data data data data data data data dat	3 collect data, I save it. That means I can come back	3 important to me as a user.
6 incognito, it's your understanding that the 7 whether information is collected in this particular 8 case. 9 Q. So, in your opinion, "collect" means save; 10 is that correct? 10 is that correct? 11 A. That's how I think about data. 12 Q. And "receive" means maybe save, maybe 13 don't save; is that correct? 13 don't save; is that correct? 14 A. Receive is have access to. What you do 15 with it is, you know, kind of different from 08:53:53 16 receive. 17 Q. So receive has nothing to do with what you 18 do with the data; is that correct? 19 A. No. I just -r just explained an example 20 that you could do with the data something upon 08:54:05 21 receiving, but that doesn't require collecting. So 22 nothing is a wrong description of my testimony. 23 Q. If someone receives data, are they using 24 that datar? 25 A. They don't have to. 26 Q. If someone receives data, are they using 27 that datar? 28 A. They don't have to? 3 A. They don't have to? 4 Q. But they don't have to? 5 A. They don't have to? 5 A. They don't have to? 6 Q. If someone collects data, it's your understanding. 10 (what about Groogle servers? 11 local machine, but Google servers? 12 A. I don't know. But what what's 13 important here is what I studied is what how 14 users and potential users understand this and what 15 do they think about it. 16 (Q. Okay. Do you know someone named Dan 17 Ariely? 18 A. Yes, I do Q. Po You know someone named Dan 17 Ariely? 20 A. He was one of my two advisors. 21 Q. Have you coauthored research papers with 22 Dr. Ariely? 23 A. I think it's obvious from my CV that I 24 have. 25 Q. Yes, you have coauthored research papers 3 with Dr. Ariely? 4 A. Yes. 5 Q. How many papers have you coauthored with 08:56:3 6 Dr. Ariely? 4 A. Yes. 5 Q. How many papers have you coauthored with 08:56:3 6 Dr. Ariely? 6 Dr. Ariely? 7 A. Five or six, maybe. I can count, if you 8 want. 9 Q. In 2008, did you publish an article 10 coauthored with Dr. Ariely uited The Dishonesty of 08:56:45 11 Honest People: A Theory of Self-Concept 12 Maintenance	4 to it in the future.	4 BY MR. REBLITZ-RICHARDSON:
7 information is not stored on your local machine; is 8 case. 8 that right? 9 Q. So, in your opinion, "collect" means save; 10 is that correct? 10 is that correct? 11 A. That's how I think about data. 11 A. That's how I think about data. 11 Coll machine, but Google servers, not on your 08:5 13 don't save; is that correct? 14 A. Receive is have access to. What you do 15 with it is, you know, kind of different from 08:53:53 16 receive. 17 Q. So receive has nothing to do with what you 18 do with the data: is that correct? 19 A. No. I just — Just explained an example 20 that you could do with the data something upon 08:54:05 21 receiving, but that doesn't require collecting. So 22 nothing is a wrong description of my testimony. 23 Q. If someone receives data, are they saving 24 that data? 25 A. They don't have to. 26 Q. If someone receives data, are they using 27 that data? 28 that data? 3 A. They can. 4 Q. But they don't have to? 4 A. They can. 4 Q. But they don't have to? 5 A. They don't have to. 6 Q. If someone receives data, it's your 7 opinion that that involves saving data; is that right? 7 A. They don't have to. 7 Q. For a time, was Dr. Ariely your advisors. 8 that right? 9 A. I — that's my interpretation of 10 collection. But again, this is my lay 11 lonest People: A Theory of Self-Concept 12 language. Collecting means storing, and receiving 13 does not necessarily mean storing. 14 Q. And so, you studied receiving, not 15 collecting; is that right? 16 Q. And so, you studied receiving, not 17 collecting; is that right? 18 A. Yes. 19 Q. I any have a some interview with a proporter. 19 A. No. Olyse that a description of the proportion of that that involves saving data; is that the proportion of you have Google delet all of the proportion of the form that that Google received from your private 20 browsing? 10 collection. But again, this is my lang the proportion of the	5 That's how I interpret your question when 08:53:27	5 Q. So when you use incognito, and close 08:55:35
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		Page 49

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 8 of 11 CONFIDENTIAL

CONFIL	PENTIAL
1 answered. 2 THE WITNESS: I'm responding yeah. 3 I'm responding to your question about Mr. Keegan's 4 questions actually asked. 5 BY MR. REBLITZ-RICHARDSON: 02:15:13 6 Q. Okay. The questions actually asked, do 7 you dispute that they concerned private browsing? 8 MS. OLSON: Objection. Asked and	1 original thousand and four or whatever responders, 2 you will find that on average, people get it right 3 about 50 percent of the time, close to 50 percent, 4 which is consistent with my affirmative study. 5 That's exactly the point. 02:17:27 6 BY MR. REBLITZ-RICHARDSON: 7 Q. Are you done? 8 A. I hope so.
9 answered. 10 THE WITNESS: What I dispute is so 02:15:24 11 so what I dispute is that responders understand what 12 the questions mean. 13 BY MR. REBLITZ-RICHARDSON: 14 Q. I'm not asking that question. Just asking 15 you whether you dispute that the questions concerned 02:15:38 16 private browsing. 17 A. No. 18 Q. You don't dispute that? 19 A. If you want me to you know do do 20 I think they're related to private browsing? I'm 02:15:49 21 answering that question. I think they are related 22 to private browsing. 23 Q. Thank you. 24 What additional questions relating to 25 private browsing do you think Mr. Keegan could have 02:16:00 Page 254	9 Q. I read your report to suggest that by 10 adding more questions, Mr. Keegan would get a higher 02:17:35 11 percentage. 12 Was that wrong? 13 A. Sorry. 14 You read so you read my report. Not 15 completely correctly. 02:17:44 16 Q. What 17 A. What I said was, in this methodology, one 18 could add questions to get a higher response, which 19 is what Keegan did. Not could do; did. He added 20 more questions until he got a higher number because 02:17:57 21 it's purely additive. 22 Q. And the questions he added concerned 23 non-Google websites, logged-out activity, and the 24 specific data that Google collects; fair? 25 MS. OLSON: Objection to the form. 02:18:11 Page 256
1 added to his survey? 2 A. I'm sorry. Are you asking me to design 3 Mr. Keegan's flawed survey for him? 4 Q. You are criticizing Mr. Keegan on the 5 basis that he could find a large proposition 02:16:17 6 [verbatim] simply by adding more questions. And I'm 7 asking what questions related to private browsing 8 could he add? 9 A. And 10 MS. OLSON: Objection to the form. 02:16:29 11 THE WITNESS: My point is he already has. 12 Look at his study. That's what he did. I'm I'm 13 not saying that he should have. I'm saying he 14 already did. He asked more questions than 15 than than than you than you have to in 02:16:41 16 order to understand this issue until the point he 17 got to a very high number. Because of the structure 18 and the logic of his design, any additional question 19 you ask, by definition, because it is additive, is	1 BY MR. REBLITZ-RICHARDSON: 2 Q. I mean, you're familiar with the questions 3 he asked; right? 4 A. Yes. 5 Q. We already established they deal with 02:18:25 6 private browsing; right? 7 A. Well, so 8 Q. Let's just look at them. You have a chart 9 in your report; right? 10 A. Yeah. Let's look at them. 02:18:32 11 Q. Page 12. All right. 12 All right. 13 What's Figure 1, on page 12? 14 A. Sorry? 15 Q. What's Figure 1 on page 12 of your 02:18:44 16 supplemental report? 17 A. Figure 1 seems to be the flowchart through 18 Keegan's study. 19 Q. Did you prepare this?
20 going to get you a higher number. By definition. 02:16:56 21 If you take let me finish. 22 If you take the average number of of 23 correct responses, quote/unquote, for each question 24 as judged by the actual people responding to it, not 25 the numbers Keegan com computed based on the 02:17:10 Page 255	20 A. I prepared this. 02:18:56 21 Q. Seems to be or it is? 22 A. Is. 23 Q. Okay. So this is the flowchart through 24 Mr. Seegan Mr. Keegan's rebuttal survey; right? 25 A. Well, the the main question 02:19:08 Page 257

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 9 of 11 CONFIDENTIAL

	DENTINE
1 parts.	1 Q. So that's a Google website and then down
2 Q. Right.	2 below, there's a non-Google website; right?
3 A. Yes.	3 A. That's right.
4 Q. And so, you see there in Question 16,	4 Q. And so, this is the survey design here in
5 Mr. Keegan asked about consent; right? 02:19:14	5 terms of distinguishing between whether it's a 02:21:21
6 A. Yes Question 16. Well, you jumped one.	6 Google website or a non-Google website; right?
7 Consent. He asked about consent.	7 MS. OLSON: Objection to the form.
8 Q. And then with Question 17, you see	8 THE WITNESS: But based on the survey
9 A. Wait, wait, wait. Stop.	9 design, only for a very small sample of the original
10 My point is it's not clear I don't 02:19:32	10 sample. 02:21:33
11 understand what consent means. Why would responders	11 BY MR. REBLITZ-RICHARDSON:
12 understand what consent means?	12 Q. Right.
13 Q. Did you test whether people understand	13 A. But he dropped most of the people by now.
14 what consent means?	14 Q. And did any of your survey questions asked
15 A. No, because it's a legal question. It's 02:19:44	15 about ask about visiting a non-Google website? 02:21:40
16 not it has nothing to do with actual perceptions.	16 A. I think we established that. I don't
17 Q. Did you ask any questions regarding	17 explicitly ask for either Google or non-Google. I
18 consent?	18 ask for websites.
19 A. No. Exactly for that point.	19 Q. Right. And if you go to Question 18,
Q. And then Question 17, Mr. Keegan asked 02:19:55	20 there's a question that elicits information as to 02:21:52
21 about people visiting non-Google websites; right?	21 whether or not the respondent has a Google account;
MS. OLSON: Objection to the form.	22 right?
THE WITNESS: Question 17, he says, "Which	23 A. That's right.
24 of the following best reflects your opinion? I	24 Q. And none of your survey questions asked
25 believe that when I am in private browsing mode, I 02:20:13 Page 258	25 about whether respondents had a Google account; 02:22:03 Page 260
1 have given con-" sorry. Question 17. Which	1 right?
2 question did you say?	2 A. That's right.
3 BY MR. REBLITZ-RICHARDSON:	3 Q. And then if you go to Question 19,
4 Q. The next one, Question 17.	4 Mr. Keegan sought information regarding browsing
5 A. Q17, "Which of the following best reflects 02:20:2	5 while signed out of any Google account; right? 02:22:08
6 your opinion? I believe when I'm in private	6 A. That's right. But do you know how many
7 browsing mode, I've given consent to Google." We	7 people responded to this question?
8 talked about that. That's not Question 17.	8 Q. Again, none of your survey questions asked
9 Q. Do you see right below that	9 about browsing while signed out of any Google
10 A. Oh 02:20:41	10 account; correct? 02:22:27
11 (Interruption in audio/video.)	11 A. That's not the
12 THE COURT REPORTER: Could you, please,	12 MS. OLSON: Objection to the form.
13 repeat what you said. Do you see right below that?	13 THE WITNESS: That's not the the
14 BY MR. REBLITZ-RICHARDSON:	14 original question is that the sample size for the
15 Q. Do you see right below that, where it 02:20:46	15 people who responded to this in Keegan's report is 02:22:32
16 states, "when I am visiting a non-Google website"?	16 so small as to be reliable.
17 A. Yeah, but that's about consent again;	17 BY MR. REBLITZ-RICHARDSON:
18 right?	18 Q. I'm not asking about sample size. I'm
19 Q. Consent with respect to whether or not	19 asking whether you asked any questions of any of
20 you're visiting a non-Google website; right? 02:20:58	
21 A. Yes.	21 browsing?
22 Q. That's what Question 17 asks about, and if	22 A. I did not
23 it says do you see that? The, like, red box off	23 MS. OLSON: Objection. Asked and
24 to the left?	24 answered.
25 A. Yep. 02:21:13	25 (Interruption in audio/video.) 02:22:54
Page 259	1 1

Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 10 of 11 CONFIDENTIAL

	he
3 the objection because of the speaking over, so could 4 you please repeat. 5 MS. OLSON: Yeah, just give me a little 02:22:58 6 bit more of a beat. Thank you. 7 I said, objection. Asked and answered. 8 BY MR. REBLITZ-RICHARDSON: 9 Q. Can you go, please, to page 19, paragraph 10 31. 02:23:08 11 A. Yes. 12 Q. Is one of your criticisms that Mr. Keegan 13 carried forward respondents who answered "don't 14 know" or "don't know, no opinion" in the main 15 questions? 02:23:31 16 A. My criticism is is a bit more elaborate 17 on that. But it's in part based on this logic, yes, 18 that if you pass people who have no idea, they never 19 drop, and you're left with most more people who 20 have no clue throughout the survey. 02:23:53 21 And I think I have an exhibit that said 22 that shows exactly the proportion of that is is 23 growing. So the very small sample that that 24 Keegan carries over is is becomes 25 predominantly occupied by people who don't know or 02:24:08 Page 262 1 have no opinion, meaning they don't care. 2 Q. Do you know what happens to Mr. Keegan's 3 survey results for his rebuttal survey, if you 4 remove the don't knows or don't know, no opinion? 5 A. Well, I think you can do the math. If you 02:24:31 3 about another hour. Could we take a quick break if 4 you're transitioning with exhibits? 5 MR. REBLITZ-RICHARDSON: Ves, please. 7 Are we going off the record? 7 Are we going off the record? 8 MR. REBLITZ-RICHARDSON: Yes, please. 9 THE VIDEOGRAPHER: Are we off the record. 10 the time is 2:25 p.m. 02:25:48 11 (Short recess taken.) 12 THE VIDEOGRAPHER: Back on the record, the time is 2:23 p.m. 02:25:48 11 (Short recess taken.) 12 THE VIDEOGRAPHER: Back on the record, the time is 2:25 p.m. 02:25:48 11 (Short recess taken.) 12 THE VIDEOGRAPHER: Back on the record, the time is 2:25 p.m. 02:34 12 Q. Professor Amir, welcome back. 02:34 13 time is 2:34 p.m. 14 BY MR. REBLITZ-RICHARDSON: 15 Q. Professor Amir, welcome back. 02:34 16 A. Thank you. 17 Q. Can we go to paragraph 36 of your 18 suppl	1? he
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	2:35:55
6 look at Table 2, what happens is, he very quickly 6 A. Yes.	
7 gets to a non-reliable sample. So calling that out 7 Q. Is that an accurate statement?	
8 as results would be unprofessional. 8 A. I hope so. It's from a document I cite.	
9 Q. You reviewed Mr. Keegan's rebuttal report; 9 It's page 7554.	
10 right? 02:24:54 10 Q. Did you review that document?	
11 A. I have. 11 A. Yes, otherwise, I wouldn't cite it.	02:36:05
12 Q. And do you recall that he had a section of 12 Q. Okay. Let's let's bring up that	02:36:05
13 his report where he evaluated Google internal 13 document. This is GOOG-BRWN-00477546, w	02:36:05
14 documents? 14 being marked as Exhibit 10. And that's Tab 13,	
15 A. Maybe. It's been a while. 02:25:06 15 Miguel. 02:36:32	hich is
16 Q. Do you recall that he had an exhibit that 16 (Amir Deposition Exhibit 10 was marked	hich is
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10 O Did you at least raviary those 40	which is
19 Q. Did you at least review those 40 19 BY MR. REBLITZ-RICHARDSON:	which is
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Case 4:20-cv-03664-YGR Document 740-3 Filed 09/09/22 Page 11 of 11 CONFIDENTIAL

1	CERTIFICATE OF REPORTER	1	xx Federal R&S Requested (FRCP 30(e)(1)(B)) – Locked .PDF
2		2	Transcript - The witness should review the transcript and
3	I, Hanna Kim, a Certified Shorthand	3	make any necessary corrections on the errata pages included
	Reporter, do hereby certify:	4	below, notating the page and line number of the corrections.
5	That prior to being examined, the witness	5	The witness should then sign and date the errata and penalty
_	in the foregoing proceedings was by me duly sworn to	6	of perjury pages and return the completed pages to all
7	testify to the truth, the whole truth, and nothing	7	appearing counsel within the period of time determined at
8	but the truth; That said proceedings were taken before me	8	the deposition or provided by the Federal Rules.
_	at the time and place therein set forth remotely and	9	Federal R&S Not Requested - Reading & Signature was not
	were taken down by me in shorthand and thereafter	10	requested before the completion of the deposition.
	transcribed into typewriting under my direction and	11	
12	supervision;	12	
13	I further certify that I am neither	13	
	counsel for, nor related to, any party to said	14	
	proceedings, not in anywise interested in the	15	
	outcome thereof.		
17	Further, that if the foregoing pertains to	16	
18	the original transcript of a deposition in a federal	17	
19	case, proceedings, review	18	
20	of th not requested.	19	
21	e hereunto	20	
22	subsi lay of August, 2022.	21	
23	/ July ~	22	
24		23	
		24	
25	Hanna Kim, CLR, CSR No. 13083	25	7
	Page 306		Page 308
1	ALYSSA "ALY" OLSON, ESQ.	1	JURAT
	ALYSSA "ALY" OLSON, ESQ. alyolson@quinnemanuel.com	1 2	JURAT
	-		JURAT I, ON AMIR, PH.D., do hereby certify under
2	alyolson@quinnemanuel.com	2	
2 3 4	alyolson@quinnemanuel.com August 19, 2022	2 3 4	I, ON AMIR, PH.D., do hereby certify under
2 3 4 5	alyolson@quinnemanuel.com August 19, 2022 RE: BROWN vs. GOOGLE LLC	2 3 4 5 6	I, ON AMIR, PH.D., do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken remotely on Tuesday, August 16, 2022; that I have made such
2 3 4 5 6	alyolson@quinnemanuel.com August 19, 2022 RE: BROWN vs. GOOGLE LLC AUGUST 16, 2022, ON AMIR, PH.D., JOB NO. 5344524	2 3 4 5 6	I, ON AMIR, PH.D., do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken remotely on
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2 3 4 5 6 7 8	August 19, 2022 RE: BROWN vs. GOOGLE LLC AUGUST 16, 2022, ON AMIR, PH.D., JOB NO. 5344524 The above-referenced transcript has been completed by Veritext Legal Solutions and review of the transcript is being handled as follows:	2 3 4 5 6 7 8	I, ON AMIR, PH.D., do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken remotely on Tuesday, August 16, 2022; that I have made such corrections as appear noted herein in ink, initialed by me; that my testimony as contained herein, as
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